GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT.

Labour Dispute:—Industrial Dispute between the Workmen and the Management of Basaveshwara Primary Consumer Co-operative Society Ltd., Davangere.

Award of the Labour Court, Hubli, published.

Read the following papers :

(1) Letter No. L.C.H. 497/72-73, dated 21st August 1972 from Sri H. S. Murdikar, Presiding Officer, Labour Court, Hubli.

BEFORE THE LABOUR COURT AT HUBLI

Reference (ID) LCH Claim No. 23/1971

Dated 19th August 1972.

Shri H. S. Murdikar, B.SC. LL.B., ... *Presiding Officer.*

Claimant:

Sri N. Shekharappa, Manadi Chandrappa Door No. 102/2 Chigateri Galli, Davanagere.

Respondent:

The Management of Shri Basaveshwara Primary Consumers Co-operative Society Ltd , Davangere.

This is a reference made by the State Government U/s 10(1) (c) of the Industrial Disputes Act, 1947 which will be, hereinafter, referred to as the Act. The following points of dispute have been referred to this Court for adjudication.

"1. Are the management of Sri Basaveswara Primary Consumers Co-operative Society Ltd., justified in refusing work to Sri N. Shekharappa, Weighman, with effect from 23rd April 1970 ?

2. If not, to what relief is the said worker entitled ?"

2. My findings on these points are as follows:

1. No
2. As per Award.

3. The facts giving rise to this reference briefly stated, are that the claimant N. Shekharappa was an employee of the Respondent Basaveshwara Primary Consumers Co-operative Society Ltd., Davangere having joined the service of the Respondent Society in 1963 as a Weighman on a monthly salary of Rs. 100. It was alleged that in addition to the work at Davangere, he used to be deputed to Bangalore, Bijapur, Bagalkot, Jamkhandi, Sindgi etc., to collect and weigh Jawar and despatch the same to Davangere. It was further alleged that on 23rd April 1970 he was orally informed by the authorities of the Society not to report for duty and was sent out. His grievance is that he has been dismissed from service without any notice being given to him or without any opportunity being afforded to him. The further grievance is that from the date of the deputation and for a period of 18 months, he has not been paid his salary and he has to receive Rs. 1800 towards arrears of salary till the representation made by him to the Labour Inspector, Davangere dated 25th April 1970. Further he has also claimed reinstatement with back wages.

3. In the written statement filed by the Respondent after considerable delay, the above allegations were denied. While admitting that the claimant was an employee of the Society, it was denied that he was removed from service. On the other hand, it was contended that the claimant himself voluntarily remained absent from 23rd April 1970 and thereafter never turned up for duty and consequently the Respondent had to make other arrangements. It was denied that the claimant was dismissed from service and consequently the question of issuing any notice or affording any opportunity to him and seek any explanation from him does not arrise. No unlawful action has been taken against the claimant by the Respondent Society. Futher, it was contended that since the claimant has voluntarily absented from service, he is not entitled to any salary or reinstatement with back wages nor any sort of compensation.

4. Even though the Respondent has filed written statement, but no futher steps have been taken by the Respondent Society to contest the case despite notices having been issued.

5. The claimant was examined as WW-1 and Ex-W-1 was marked.

6. The claimant N. Shekharappa who was examined as WW-1 has reiterated the facts set out in the claim statement. He

has stated that he joined the Respondent Society as weighman in 1963 on a monthly salary of Rs. 100 and that apart from doing work at a Davangere, he was also being deputed for work to Bangalore, Bijapur, Bagalkot, Jamakhandi etc., for work *viz* to weigh and desptach Jawar to Davangere. He has further stated that for 18 months upto his representation to the Labour Inspector as per Ex. W-1 dated 25th April 1970, he was not paid his salary. He has further stated that on 23rd April 1970 he was removed from service and was asked not to report to duty henceforth by the Director and the Secretary of the Respondent Society. His representation to the Labour Inspector, Davangere *vide* Ex. W-1 also did not yield any result and he was informed that the records of his case had been forwarded to the Government

6. It is therefore seen that the testimony of the claimant is not controverted. As already mentioned, even though the Respondent had contended that the claimant Voluntarily remained absent from 23rd April 1970, none on behalf of the Respondent has chosen to step into the witness box and swear to this fact. The result is that the testimony of the claimant remains unchallenged that on 23rd April 1970 he was asked by the Secretary and Director of the Society not to report for duty henceforth. In the absence of any rebuttel evidence on behalf of the Respondent and in view of the assertion of the claimant, it is inconceiveble that the claimant who had put in a Service of about 7 years in the Respondent Society would of his own accord, remain absent from duty and yet agitate the matter and seek relief by approaching the concerned authorities of the Labour Department. Therefore I am of opinion that the Management of Sri Basaveshwara Primary Consumers Co-operative Society Ltd. Davangere was not justified in refusing work to the claimant Shekharappa, Weighman w.e.f. 23rd April 1970. Under these circumstances, I am constrained to hold that the claimant is entitled to arrears of salary for 18 months claimed together with the relief of reinstatement and continuity of service with back wages from 23rd April 1970 till the date of reinstatement at the rate of Rs. 25 p. m. Hence my AWARD.

AWARD.

The Respondent should reinstate the claimant forthwith in service and pay him arrears of salary of Rs. 1800 and also back wages at the rate of Rs. 25 p.m. from 23rd April 1970 till the date of reinstatement, with continuity of service.

H. S. MURDIKAR,
Presiding Officer,
Labour Court, Hubli.

"True Copy"

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Presiding Officer,
Labour Court, Hubli.

ORDER

Bangalore, dated 7th September 1972.

S. O. 112.—WHEREAS a reference was made by State Government Under Section 10(1)(c) of the Industrial Disputes Act, that the Industrial Dispute between the Workmen and the Management of Basaveshwara Primary Consumers Co-operative Society Ltd., Davangere be referred to the Labour Court, Hubli for adjudication.

AND WHEREAS, the Labour Court, Hubli has submitted to the State Government its award in respect of the said Industrial Dispute;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette.*

[No. FCL 162 LLA 72.]

By Order and in the name of the Governor of Mysore,

ANIRUDHA DESAI,
Under Secretary to Government,
Food, Civil Supplies and Labour Department.